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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,060	07/02/2003	Larry R. Yeager	1796021US1AP	6671
27542	7590	09/21/2004	EXAMINER	
SAND & SEBOLT AEGIS TOWER, SUITE 1100 4940 MUNSON STREET, NW CANTON, OH 44718-3615			BOSWELL, CHRISTOPHER J	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/613,060	YEAGER ET AL.	
	Examiner	Art Unit	
	Christopher Boswell	3676	<i>LL</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 July 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 14-19 is/are allowed.
- 6) Claim(s) 1-8, 12 and 13 is/are rejected.
- 7) Claim(s) 9-11 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7-8, and 12-13 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 6,276,033 to Johnson et al.

Johnson discloses a theft deterrent device comprising a housing (5) having a base (9), a lock member (20), and a lock (figure 11) that locks the lock member in a locked position with respect to the base, as in claim 8, the base of the housing defining lock teeth (21 and 22), the lock member including a wedge (9f), as in claim 12, a clasp (6 and 7) having a pair of opposed locking legs (6b and 6c) connected together by a bridge (6a), as in claim 3, where each of the locking legs includes an outer surface, an inner surface, and a pair of opposed edges (figure 7), as in claim 4, each of the legs having a wedge-shaped inner surface (figure 7), each of the legs defining lock teeth (31 and 32), the legs of the clasp insertable into the housing when the lock member is in the unlocked position (figure 9), and the wedge of the lock member engaging at least one of the inner surfaces of the clasp legs when the lock member is moved to the locked position to force the lock teeth of the clasp into locked engagement with the lock teeth of the base (figure 9), wherein the position of the clasp is adjustable with respect to the base (depending

on the depth the clasp is inserted), as in claims 1, wherein the clasp is U-shaped (figure 7) and locks to the housing in two spaced locations (27 and 28), as in claim 2.

Johnson further discloses a portion of the clasp is disposed between the wedge and the housing when the clasp is locked and when the wedge is in the locked position (figure 9), as in claim 13.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, as applied above, in view of U.S. Patent Number 5,791,079 to Mazzucchelli.

Johnson discloses the invention substantially as claimed. Johnson also discloses the inner surface of each locking leg is wedge-shaped (31 and 32), the wedge of the housing being adapted to engage the inner surface of the locking leg when the clasp is locked to the housing (figures 9 and 11). However, Johnson does not disclose lock teeth on other surfaces besides the inner surface of the legs of the clasp. Mazzucchelli teaches an attachment element with locking teeth on plurality of surfaces (5), which engage into retention pawls (8a and 8b) in the analogous art of anti-theft devices for the purpose of being efficiently fixed to a product to be protected to resist attempts by shoplifters to remove it from the product. It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate addition surfaces of

locking teeth onto the locking legs of the clasp as well as adding additional locking teeth on the outer surface of the housing in order to efficiently fix the theft deterrent device to a product to resist attempts by shoplifters to remove the device.

Claim Objections

Claims 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Allowable Subject Matter

Claims 14-19 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, taken as a whole, do not teach or render obvious the combination set forth, including that of a theft deterrent device having a housing having a base, a lock member having a wedge, a lock, and a clasp having opposed legs, where each of the legs have a wedge-shaped inner surface. Wherein, the lock member pivots with respect to the base between the locked position and an unlocked position, and the lock being unlockable with a key to release the lock member from the locked position so that the lock member may be moved to an unlocked position with respect to the base.

Response to Arguments

Applicant's arguments filed July 6, 2004 have been fully considered but they are not persuasive. The examiner asserts that the wedge of Johnson can be moved in position from a unlocked position, as shown in figures 6 and 7, to an unlocked position, as shown in figures 9 and 11, where the wedge engages the clasp in the locked position to force a portion against the housing when the clasp is locked to the housing, as shown in figures 9 and 11, not as argued by the applicant on page 6, lines 7-11, 26-29 and page 7, lines 17-19 of the Remarks. Furthermore, Johnson does, in fact, disclose the wedge, item 9f, does engage the clasp in the locked position, as shown in figures 9 and 11, to force a portion of the clasp against the housing when the clasp is locked, column 3, line 60, and column 4, lines 31-37, where the wedge engages the clasp legs and forces a portion of the clasp against the housing when the clasp is locked in the housing, as shown in figure 11, as argued by the applicant on page 7, lines 2-7.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (703) 305-4067. The examiner can normally be reached on 8:30 - 5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CJB *(Signature)*
September 8, 2004

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600